

Honorable Gale W. McGee, Chairman  
Committee on Post Office and Civil Service  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing to offer my views on H.R. 6227, which is pending before the Senate Post Office and Civil Service Committee. Under this bill, an employee under investigation for misconduct which could lead to suspension, removal, or reduction in rank or pay can be questioned only after he has been advised in writing of the fact that he is under investigation and has been given up to five days to obtain a representative of his choice to be present during questioning.

H.R. 6227 includes special provisions for the Central Intelligence Agency, the National Security Agency, and the Federal Bureau of Investigation. Under section 7171(b) the representative of an employee in these agencies must be an employee of the same agency and be approved by the agency for access to the information involved in the investigation. Moreover, under section 7172(b), employees of these agencies against whom adverse action is taken in violation of the bill's provisions are entitled to appeal such action to the President or his designee, whose recommendation would be final.

Perhaps more than other institutions, intelligence organizations, if they are to be effective, must treat their personnel fairly. In most instances, the Central Intelligence Agency's practice and regulations are fully consistent with the underlying purpose of H.R. 6227. However, there are circumstances in which applying such a blanket statutory requirement to this Agency and other intelligence agencies would be inappropriate and inadvisable. Even though the provisions of section 7171(b) and 7172(b) meet some of the special considerations which must apply in the case of our foreign intelligence agencies, I believe it is essential that these agencies be fully exempted from H.R. 6227 in light of their unique missions and certain statutory authorities which have as their purpose the protection of intelligence sources and methods.



The administration of the Central Intelligence Agency is governed by the National Security Act of 1947 and the Central Intelligence Agency Act of 1949. The former imposes on the Director of Central Intelligence responsibility for protecting intelligence sources and methods from unauthorized disclosure (50 U.S.C. 403). It also grants the Director the discretion to terminate the employment of any officer or employee of the Agency "whenever he shall deem such termination necessary or advisable in the interests of the United States" (50 U.S.C. 403). The Director of the National Security Agency has similar termination authority (50 U.S.C. 833). These statutory authorities are considered to be absolutely essential in the management of our foreign intelligence efforts. I believe the requirements of section 7171(b) and 7172(b) conflict with these authorities and would, as described in the enclosure, undermine important managerial programs which have as their purpose the protection of intelligence sources and methods.

If the Committee favorably considers H.R. 6227, I strongly urge that the Central Intelligence Agency and the National Security Agency be provided a full exemption. (Suggested language enclosed.)

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

George Bush  
Director

Enclosure

Amendment to H.R. 6227

(1) Strike Section 7171(b) and insert in lieu thereof:

"(b) Nothing in this section shall apply to the Central Intelligence Agency or the National Security Agency."

(2) Strike the following words from the first sentence of section 7172(a):

"Except as provided under subsection (b) of this section, ..."

(3) Strike section 7172(b).